



## DEPARTMENT OF LABOR

### Wage and Hour Division

Agency Information Collection Activities; Comment Request; Proposed Extension of the Approval of Information Collection Requirements; Records to be kept by Employers- Fair Labor Standards Act

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Records to be kept by Employers – Fair Labor Standards Act. A copy of the proposed information request can be obtained by contacting the office listed below in the FOR FURTHER INFORMATION CONTACT section of this Notice.

DATES: Written comments must be submitted to the office listed in the ADDRESSES section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Control Number 1235-0018, by either one of the following methods: E-mail: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier: Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S.

Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number ). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

#### SUPPLEMENTARY INFORMATION:

I. Background: The Wage and Hour Division of the Department of Labor administers the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, et seq., which sets the Federal minimum wage, overtime pay, recordkeeping, and youth employment standards of most general application. See 29 U.S.C. 206; 207; 211; 212. FLSA requirements apply to employers of employees engaged in

interstate commerce or in the production of goods for interstate commerce and of employees in certain enterprises, including employees of a public agency; however, the FLSA contains exemptions that apply to employees in certain types of employment. See 29 U.S.C. 213, et al.

FLSA section 11(c) requires all employers covered by the FLSA to make, keep, and preserve records of employees and of wages, hours, and other conditions and practices of employment. See 29 U.S.C. 211(c). A FLSA covered employer must maintain the records for such period of time and make such reports as prescribed by regulations issued by the Secretary of Labor. Id.

The DOL has promulgated regulations 29 CFR part 516 to establish the basic FLSA recordkeeping requirements. The DOL has also issued specific sections of regulations 29 CFR parts 10, 505, 519, 520, 525, 530, 547, 548, 549, 551, 552, 553, 570, 575, and 794 to supplement the part 516 requirements and to provide for the creation and maintenance of records relating to various FLSA exemptions and special provisions.

The Wage and Hour Division (WHD) uses this information to determine whether covered employers have complied with various FLSA requirements. Employers use the records to document FLSA compliance, including showing qualification for various FLSA exemptions.

The WHD seeks approval to extend this information collection related to various FLSA recordkeeping requirements.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks an approval for the extension of this information collection that requires employers to make, maintain, and preserve records in accordance with statutory and regulatory requirements.

*Type of Review:* Extension.

*Agency:* DOL - Wage and Hour Division.

*Title:* Records to be kept by Employers- Fair Labor Standards Act.

*OMB Control Number:* 1235-0018

*Affected Public:* State, Local, and Tribal Governments; and Private Sector businesses or other for-profit, Not-for-profit institutions, Farms.

*Agency Numbers:* Form WH-14, Form WH-5

*Total Estimated Number of Respondents:* 3,780,294

*Total Estimated Number of Annual Responses:* 45,518,189

*Estimated Annual Total Burden Hours:* 1,048,482

*Estimated Time per Response:* various

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* \$0

*Total Burden Costs (operation/maintenance):*        \$0

Dated: 04/17/2019

Robert M. Waterman,

Division of Regulations, Legislation and Interpretation.

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